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 8 **A/K/A FRANK FUSCO**

9
 10 UNITED STATES DISTRICT COURT
 11 DISTRICT OF NEVADA

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13 FRANCESCO FUSCO a/k/a FRANK FUSCO,)
 an individual,)
 14)
 Plaintiff,)
 15)
 vs.)
 16)
 TROPICANA LAS VEGAS, INC., a Nevada)
 17 corporation; TROPICANA LAS VEGAS)
 HOTEL AND CASINO, INC., a Delaware)
 18 corporation; TROPICANA LAS VEGAS)
 RESORT & CASINO, INC., a Delaware)
 19 corporation; DOES I through X; and ROE)
 BUSINESS ENTITIES I through X, inclusive,)
 20)
 Defendants.)
 21)

Case No. 2:13-CV-01723-APG-NJK
 STIPULATED DISCOVERY PLAN AND
 SCHEDULING ORDER
 SPECIAL SCHEDULING REVIEW
 REQUESTED

22 COMES NOW Plaintiff Frank Fusco ("*Fusco*") by and through his attorneys, Roger P.
 23 Croteau & Associates, LTD., and Defendant Tropicana Las Vegas, Inc. ("*Tropicana*") by and
 24 through their attorneys, Ogletree, Deakins, Nashi, Smoak & Stewart, P.C., and hereby jointly submit
 25 their proposed discovery plan and scheduling order pursuant to Fed. R. Civ. P. 26(f) and LR 26-1(e).

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1. This matter was removed to this Court on September 20, 2013 (ECF No. 1); Tropicana has not answered and instead filed a Motion to Dismiss (ECF No. 10) on October 28, 2013. Fusco filed a Response (ECF No. 22) on December 23, 2013.

2. **Special Scheduling Review.** The parties request a longer period than prescribed under Local Rule 26-1 to conduct discovery due to on-going settlement discussions. The parties hereto conferred on December 3, 2013 and discussed the nature and basis of the claims and defenses and the possibility of settling or otherwise resolving the case. The parties subsequently participated in an Early Neutral Evaluation conference ("ENE") on February 12, 2014 (*See* ECF No. 24.) At the conclusion of the ENE, the parties agreed a second conference would be productive, and a second conference was scheduled for April of 2014.

However, on March 27, 2014, the parties determined at least some discovery would be helpful and submitted a stipulation to vacate the second ENE, Doc. No. 25, which the Court granted on March 28, 2014. Doc. No. 26. Pursuant to the stipulation to vacate the second ENE, the parties requested an opportunity to seek to reschedule the second ENE to continue discussions.

3. **The Subjects On Which Discovery Will Be Conducted**

Discovery will need to be conducted on the claims, damages, and affirmative defenses relating to the Plaintiff's individual claims. The above-referenced statement of subjects of discovery in no way constitutes a waiver of any party's right to assert good faith objections to discovery requests or deposition inquiries as appropriate.

4. **Issues Related to the Disclosure or Discovery of Electronically Stored Information**

To the extent the inspection or production of Electronically Stored Information ("ESI") is necessary to this matter, the parties prefer to deal with such information on an *ad hoc* basis as issues arise. In the event ESI is to be produced, and to the extent practicable, the parties agree that the ESI can be produced as searchable images in .pdf file format.

5. **Issues Relating To Claims Of Privilege Or Attorney Work Product**

The parties agree to be bound by Federal Rule of Evidence 502 regarding the disclosure of privileged material or work product.

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1 **6. Limits on Discovery**

2 The parties agree that discovery will be conducted in accordance with the Federal Rules of
3 Civil Procedure and applicable Local Rules of this District Court, except as otherwise provided herein
4 or as otherwise ordered by the Court or Magistrate Judge.

5 **7. Discovery Plan and Scheduling Order**

6 Pursuant to LR 26-1(e), the parties agree to the following deadlines.

- 7 a. Fed. R. Civ. P. 26(a)(1) disclosures: the Parties have produced initial disclosures;
- 8 b. Close of Discovery: December 1, 2014;
- 9 c. Amending Pleadings and Adding Parties. September 1, 2014;
- 10 d. Expert Disclosures October 2, 2014;
- 11 e. Joint Interim Status Report October 2, 2014;
- 12 f. Rebuttal Expert Disclosures November 1, 2014;
- 13 g. Dispositive Motion Deadline December 31, 2014;

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h. Pretrial Order

January 30, 2015;

i. Fed. R. Civ. P. 26(a)(3) disclosures will be included in the Pretrial Order.

Jointly submitted by

ROGER P. CROTEAU & ASSOCIATES, LTD

\s\ Peter E Dunkley, Esq

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ORDER

IT IS SO ORDERED:



UNITED STATES MAGISTRATE JUDGE

DATED: July 30, 2014.